

COMBINED DECLARATION AND POWER OF ATTORNEY
FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: RECOMBINANT PRODUCTION OF NOVEL POLYKETIDES the specification of which

(check one) is attached hereto
 X was filed on May 6, 1994

as application serial no. 08/238,811.

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

"(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office,

or

(ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability."

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than six months prior to this application.

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) and (b) set forth above which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.: 08/164,301

Filing Date: December 8, 1993

Status (patented, pending, abandoned): pending

Application Serial No.: 08/123,732

Filing Date: September 20, 1993

Status (patented, pending, abandoned): pending

As to the subject matter of this application which is common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said earlier application, or in public use or on sale in the United States of America more than one year prior to said earlier application; that said common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of said earlier application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said earlier application; and that the earliest application(s) for patent or inventor's certificate on said invention filed by me or my legal representatives or assigns in any country foreign to the United States of America is identified below, as well as all other such applications (if any) filed more than twelve months prior to the filing date of this application:

NONE

The priority of the earliest application(s) (if any) filed within a year prior to said pending prior application is hereby claimed under 35 U.S.C. § 119.

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I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Dianne E. Reed, Reg. No. 31,292
Roberta L. Robins, Reg. No. 33,208
Kenneth Barovsky, Reg. No. 36,442

Address all correspondence to: Kenneth Barovsky

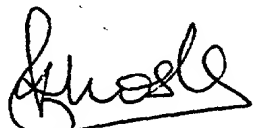
REED & ROBINS
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Palo Alto, CA 94301

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Address all telephone calls to: Kenneth Barovsky at (415) 617-8999.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature:  Date 8/11/94
Full Name of Inventor: Chaitan Khosla
Citizenship: India
Residence: Stanford, California 94305
Post Office Address: 132 Peter Coutts Circle, Stanford, California 94305

Signature: _____ Date _____
Full Name of Inventor: David A. Hopwood
Citizenship: United Kingdom
Residence: Norwich, England
Post Office Address: 244 Unthank Road, Norwich, NR2 2AH, England

Signature: S. Ebert-Khosla Date 8/11/94
Full Name of Inventor: Suzanne Ebert-Khosla
Citizenship: German
Residence: Stanford, California 94305
Post Office Address: 132 Peter Coutts Circle, Stanford, California 94305

Signature: Robert McDaniel

Date 8-11-94

Full Name of Inventor: Robert McDaniel

Citizenship: United States of America

Residence: Palo Alto, California 94306

Post Office Address: 2891 Alma Street, No. D., Palo Alto, California 94306

Signature: Hong Fu

Date 8-11-94

Full Name of Inventor: Hong Fu

Citizenship: China

Residence: Stanford, California

Post Office Address: Chemical Engineering, Stauffer III, Stanford University, Stanford, California, 94305-5025

Signature: Camilla M. Kao

Date 8/11/94

Full Name of Inventor: Camilla Kao

Citizenship: United States of America

Residence: Stanford, California

Post Office Address: 19A Escondido Village, Stanford, 94305

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Signature: _____

Date _____

Full Name of Inventor: Chaitan Khosla

Citizenship: India

Residence: Stanford, California 94305

Post Office Address: 132 Peter Coutts Circle, Stanford, California 94305

Signature: D. A. Hopwood

Date July 22 1994

Full Name of Inventor: David A. Hopwood

Citizenship: United Kingdom

Residence: Norwich, England

Post Office Address: 244 Unthank Road, Norwich, NR2 2AH, England

Signature: _____

Date _____

Full Name of Inventor: Suzanne Ebert-Khosla

Citizenship: German

Residence: Stanford, California 94305

Post Office Address: 132 Peter Coutts Circle, Stanford, California 94305

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Signature: Susanne Ebert-Khosla

Date 3/3/99

Full Name of Inventor: Susanne Ebert-Khosla

Citizenship: German

Residence: Palo Alto, CA 94306

Post Office Address: 740 La Para Avenue, Palo Alto, CA 94306

Signature: _____

Date _____

Full Name of Inventor: Robert McDaniel

Citizenship: United States of America

Residence: Palo Alto, California 94306

Post Office Address: 2891 Alma Street, No. D., Palo Alto, California 94306

Signature: _____

Date _____

Full Name of Inventor: Hong Fu

Citizenship: China

Residence: Stanford, California

Post Office Address: Chemical Engineering, Stauffer III, Stanford University, Stanford, California,
94305-5025

Signature: _____

Date _____

Full Name of Inventor: Camilla Kao

Citizenship: United States of America

Residence: Stanford, California

Post Office Address: 19A Escondido Village, Stanford, 94305